



# STATE OF CONNECTICUT

## DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing -- February 22, 2010  
Environment Committee

Testimony Submitted by Commissioner Amey W. Marrella  
Department of Environmental Protection

### Raised Senate Bill No. 121 - AN ACT CONCERNING THE EXTENSION OF GENERAL PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 121, AN ACT CONCERNING THE EXTENSION OF GENERAL PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

We appreciate the Committee's willingness to raise this bill at the request of the Department of Environmental Protection (Department). This proposal, that we strongly support, would continue the authorization to conduct an activity covered by a general permit beyond its original expiration date if the Commissioner has issued a public notice of tentative determination of the Department's intent to renew such general permit at least one hundred and eighty days prior to its expiration date, but not yet renewed the general permit before the expiration date is reached.

More than half the environmental activities that the Department regulates through the permitting process are covered by general permits. To date, the Department administers fifty-six different general permits that cover a wide range of activities. Nearly 6,000 active registrants are covered by a general permit. General permits offer efficiency and reduced cost to the regulated community, compared to individual permits. At the same time, the term of a general permit is typically limited to five years, and the Department sometimes has difficulty renewing a general permit before its expiration date.

To renew a permit, Department staff typically must assess current federal and state law, consult with stakeholders, and update the text of the permit accordingly. The staff then provides notice of the Department's intent to renew the permit, and afford the public generally 30 days to comment on the draft permit provisions. In accordance with the Department's Rules of Practice, interested parties may petition for adjudication of the terms of the proposed permit before one of the Agency's Hearing Officers. When adjudication occurs, it can take more than 180 days to renew a permit. Moreover, efforts to encourage input from the public and stakeholders and offer an open and transparent administrative process may lead to lengthy discussions that extend the timeframe required for renewal of a general permit beyond the timeframe originally projected by the Department.

Passage of this bill would provide benefits to the citizens, businesses and industries of Connecticut as well as the Department. Registrants under general permits, mostly Connecticut businesses and industries, would be provided continued legal coverage as opposed to the gap in legal coverage currently created when a general permit expires before it is renewed. This gap

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exposes the registrant to third party lawsuits for lack of permit coverage. The only legal recourse currently available to a registrant when a general permit expires is to cease the activity or obtain an individual permit, a process complicated by more comprehensive application procedures and higher fees.

At the same time, this proposal would maintain the Department's ability to enforce the terms and conditions of a general permit that would be lost when a general permit expires. Furthermore, the proposal would only be triggered once the Department makes an effort to timely renew the general permit. Thus, the proposal would encourage the Department to launch the timely reconsideration and renewal of general permits.

Additionally, this proposal would allow eligible businesses and industries to register a new activity under the otherwise expired general permit and the Commissioner to continue to collect registration fees. These fees are far less than that of a comparable individual permit and support the Department's and the State's mission of environmental protection.

Precedent for continuation of general permit coverage beyond a permit's expiration date exists in the Environmental Protection Agency's (EPA) general permit program. EPA's general permits explicitly state that if the permit is not reissued or replaced prior to its expiration date, it will be administratively continued and remain in full force and effect until there is an outcome on such general permit. (For an example see Section 1.3.2 "Continuation of this Permit" on page 9 of EPA's Multi-sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) 9/29/08 at the following link [http://www.epa.gov/npdes/pubs/msgp2008\\_parts1-7.pdf](http://www.epa.gov/npdes/pubs/msgp2008_parts1-7.pdf) or Section 1.5.2 "Continuation of this Permit" on page 7 of EPA's Vessel General Permit (VGP) 12/19/08 at [http://www.epa.gov/npdes/pubs/vessel\\_vgp\\_permit.pdf](http://www.epa.gov/npdes/pubs/vessel_vgp_permit.pdf).)

Finally, to further clarify the bill's language, we would suggest a correction in line 10 be made to strike "makes a final decision on the renewal of" and replace with "renews". This will eliminate any ambiguity as to the status of the expired general permit in the event that a final decision is not to renew.

In summary, the Department strongly supports Raised Senate Bill No. 121, AN ACT CONCERNING THE EXTENSION OF GENERAL PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION for the continued legal coverage it will provide to existing and new registrants, and for the assurance that the Department will be able to enforce the terms and conditions of its general permits which serve to protect human health and the environment.

Thank you for the opportunity to present the Department's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or [Robert.LaFrance@ct.gov](mailto:Robert.LaFrance@ct.gov).